

# The NYPD Is Illegally Leaking Sealed Records About Children to Tabloids

Akela Lacy : 8-10 minutes : 8/22/2024

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Last spring, New York City police officers stopped a 19-year-old on the subway during her commute. She was eligible for a free transfer from the bus to the subway, but the transfer failed to register at the turnstile, so she and a friend entered through the platform emergency exit door.

Police stopped them, took their names, and let her friend go. Officers told the 19-year-old she had a prior arrest — from 2018, when she was in her early teens — and began to question her.

The cops should not have known about that past arrest. A New York state law protects juvenile records in cases without any finding of guilt from access by anyone, including law enforcement, without a court order.

The arrest had occurred after an incident involving the girl's mother that resulted in child services filing a petition against her mother for abuse and neglect, and removal of the girl from her mother's custody. At the time of the subway encounter, she was still in foster care.

The arrest was never prosecuted and was later dismissed and sealed. Yet officers had managed to access the sealed record from their phones and question her about it.

The young woman is one of three plaintiffs who filed a class-action suit in July against the city and NYPD Commissioner Edward Caban for what they said was a practice of illegally accessing, using, and leaking sealed youth records. The suit, which was unsealed Thursday, alleges that officials routinely share those sealed records with prosecutors and the media — specifically with pro-cop tabloids that regularly publish juvenile arrest information [sourced from police](#).

“The NYPD routinely accesses this information, uses it, and also discloses it.”

“When a case is sealed, it can't be disclosed to any person or to any private or public agency, and that includes the NYPD,” said Kate Wood, an attorney in the juvenile rights practice at the Legal Aid Society, a legal advocacy group working on the suit. “Yet we know, contrary to both that statutory language and the underlying purpose of the Family Court Act — and really the juvenile legal system more generally — the NYPD routinely accesses this information, uses it, and also discloses it.”

In a statement, an anonymous NYPD spokesperson said, “The NYPD will decline comment on pending litigation.”

Legal advocates working on the suit said the practice of leaking sealed juvenile records was indicative of the NYPD's broader disregard for civil liberties.

“It essentially reflects an attitude by the NYPD that anyone who has come in contact with the NYPD — who, of course, are predominantly brown and Latinx young people — should be subjected to hyper-surveillance and kept in their databases,” Lisa Freeman, director of special litigation and law reform at the juvenile rights practice at Legal Aid.

## Illegal Disclosure

The lawsuit brought by Legal Aid and the law firm Milbank LLP alleges that the NYPD improperly trains personnel on how to handle sealed records, and that internal practices regarding sealed records contradict one another.

The NYPD office for conducting legal training, for instance, issued a 2018 [bulletin](#) saying that youth records must not be shared outside of the department. These records, however, are routinely passed by the NYPD to media, according to attribution in the tabloids, and the suit outlines instances of this external sharing.

NYPD policies that [train personnel to access sealed juvenile records](#) also violate state law, the plaintiffs wrote in the complaint. “The NYPD uses information from sealed youth arrest-related records to make decisions that have profound effects on young people, including whether to arrest or detain a person,” plaintiffs wrote.

The NYPD isn’t the only agency that has accessed sealed juvenile records and used them to question people. One victim of the police leaking told The Intercept that agencies including the Port Authority and the city’s Department of Correction accessed his juvenile records.

The man, who requested to go by the name “George” due to the confidentiality of his juvenile record, said he applied for jobs at all three agencies, and each asked why he had not previously disclosed an arrest. His lawyer sent letters to the agencies notifying them that requesting her client disclose a sealed juvenile record was against the law.

George said he was told that his application with the NYPD would be put on hold and potentially disqualified if he didn’t disclose his juvenile record. “It was like the better the jobs I was getting, the harder the process,” he said. He said police did not handcuff him and told him he was not under arrest, so he was unaware that he was even arrested until the agencies asked him about the record as an adult.

“Juvenile records should not be showing up in background checks for law enforcement,” said his attorney, Emma-Lee Clinger. “There should have been no reason why Port Authority, the NYPD, or the Department of Correction knew about George’s arrest record.”

The New York Family Court Act seals all arrest-related records for juveniles who have not been found guilty of anything, unless a judge has ordered the case to remain unsealed.

The idea behind the law and others protecting juveniles from being treated as adults in the criminal system is two-fold. First, the criminal system separates juveniles from adults because of differences in brain development and capacity for decision-making, and also to give children the opportunity for rehabilitation. Second, Black and brown young people are more likely to come into contact with police and to face surveillance and [arrest](#), meaning that it’s more likely that those records could be used to discriminate against them in the future.

The NYPD’s practice of accessing and sharing what are supposed to be sealed records violates both of those notions, in addition to state law.

If someone, particularly a juvenile, is arrested for something they did not do, they should be returned to that presumption of innocence, said Melanie Westover Yanez, a litigation and arbitration attorney at Millbank, a law firm working with Legal Aid on the case.

“You’re a totally innocent juvenile in particular in this case: a sensitive, delicate young person who gets charged for something, nothing comes of it, and yet it’s being disclosed to prosecutors, to the media, to police who stop you on the street for something else,” she said. “It’s a real harm that they’re suffering through no wrongdoing of their own.”

The NYPD’s routine violations of state law undermine the presumption of fairness that the law is supposed to afford, said Legal Aid’s Freeman.

The police treat DNA in a similar way in what Legal Aid has said is an [unlawful database](#) with samples of genetic material from people who have not been charged with a crime or have had charges dismissed. Legal Aid [sued](#) over the database in 2022, and the case is ongoing. The NYPD also illegally kept a database of juvenile fingerprints for years, The Intercept [reported](#).

Legal advocates [sued](#) the NYPD in 2018 for similarly leaking what were supposed to be sealed records — and [training officers](#) to access them — for adults in cases in which no one was convicted. In March, a judge [ruled](#) that the department had to stop using sealed records and overhaul its databases and predictive policing technologies to remove sealed records.

In the suit filed Tuesday, plaintiffs are asking for an injunction to force the NYPD to immediately stop accessing, using, and sharing sealed juvenile records. The plaintiffs are also asking that the court declare the agency's practice of accessing and sharing sealed juvenile records a violation of state law.

"It really has a very negative effect both on our sense of our own credibility as juvenile defenders and on the public perception of the fairness of the system that purports to provide protections that it doesn't in fact provide," Freeman said.

"If it wasn't for my lawyer, I probably wouldn't have a job right now," said George. "If this is happening, it's happening to other kids. It's sad, it's a sad situation. It's not fair that somebody can judge you based off of something you did, or something they think you did, as a juvenile."

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*This story has been updated to include a statement from the NYPD received after publication.*